

Magistrate Judge James P. Donohue

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID SCOTT ENGLE,

Defendant.

CASE NO. MJ12-592

AMENDED
COMPLAINT for VIOLATION

Title 18, U.S.C.
Sections 2251(a) and (e), 2252(a)(2)
and (b)(1), and 2252(a)(4)(B) and
2252(b)(2)

BEFORE James P. Donohue, United States Magistrate Judge, U. S. Courthouse, Seattle, Washington.

COUNT ONE
(Production of Child Pornography)

Beginning on a date unknown, and continuing through no later than November 6, 2012, at Maple Valley, within the Western District of Washington, and elsewhere, DAVID SCOTT ENGLE did knowingly employ, use, persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Sections 2251(a) and (e).

COUNT TWO
(Receipt of Material Constituting or Containing Child Pornography)

On a date unknown, but no later than November 6, 2012, at Maple Valley, within the Western District of Washington, and elsewhere, DAVID SCOTT ENGLE did knowingly and unlawfully receive one or more images of child pornography as that term is defined by Title 18, United States Code, Section 2256, that is, visual depictions the production of which involved the use of minors engaging in sexually explicit conduct, and the visual depictions were of such conduct, using any means and facility of interstate and foreign commerce and which images had been mailed and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Sections 2252(a)(2) and 2252(b)(1).

COUNT THREE
(Possession of Child Pornography)

On or about November 6, 2012, at Maple Valley, within the Western District of Washington, DAVID SCOTT ENGLE did knowingly possess matter that contained child pornography as that term is defined by Title 18, United States Code, Section 2256, that is, visual depictions the production of which involved the use of minors engaging in sexually explicit conduct, and the visual depictions were of such conduct, that had been mailed and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, and which had been produced using materials that had been mailed and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2252(a)(4)(B) and 2252(b)(2).

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1 And the complainant states that this Amended Complaint is based on the following
2 information:

3 I, W.E.S. Beaty, being first duly sworn on oath, depose and say:

4 1. I am a Postal Inspector with the United States Postal Inspection Service
5 (USPIS). I have been so employed since January 2003. I am currently assigned to the
6 Seattle Division of the USPIS, and domiciled in Seattle, Washington. I investigate
7 criminal violations relating to child exploitation and child pornography, including
8 violations pertaining to the illegal production, distribution, receipt, and possession of
9 child pornography in violation of 18 U.S.C. §§ 2251, 2252, and 2252A, in the states of
10 Oregon, Washington, Idaho, Montana, and Alaska. I have received specialized training in
11 the investigation of child sexual exploitation offenses from the USPIS, SEARCH, Dallas
12 Crimes Against Children Conference, INTERPOL Working Group on Crimes Against
13 Children, and Internet Crimes Against Children (ICAC) conferences, to include training
14 for Internet-based investigations and online undercover investigations, and training in
15 child forensic interviewing.

16 2. As further detailed below, based on my investigation and the investigation
17 of other law enforcement officers, I submit there is probable cause to believe that DAVID
18 SCOTT ENGLE has committed the violations described above. In particular, the
19 investigation has uncovered substantial evidence that DAVID SCOTT ENGLE
20 knowingly received child pornography on or before November 6, 2012, and knowingly
21 possessed child pornography on November 6, 2012.

22 3. In October 2010, the USPIS and foreign law enforcement began an
23 investigation into a movie production company that operated a website offering DVDs
24 and streaming videos ("films") for sale. The majority of these films featured young boys
25 and were marketed as "naturist films from around the world." Foreign law enforcement
26 and the USPIS determined that this production company (hereinafter the "International
27 Company") was located outside of the United States and was the subject of more than 20
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1 complaints to the National Center for Missing and Exploited Children's Cyber TipLine
2 regarding the sale of child pornography.

3 4. USPS Inspectors accessed the International Company's website in October
4 2010, and were able to review film previews, website movie summaries, and customer
5 ordering information. On six occasions between February and April, 2011, USPS
6 Inspectors from Brentwood, Tennessee, conducted controlled purchases of DVDs via the
7 International Company's online ordering system. Law enforcement determined that the
8 International Company had a shipping facility located in North Tonawanda, New York,
9 and that the undercover online orders were transferred from the International Company to
10 this New York-based shipping facility for fulfillment. The undercover orders were then
11 shipped from North Tonawanda, New York via United States Postal Service (USPS)
12 Priority Mail to a post office box in Nolensville, Tennessee.

13 5. Foreign law enforcement executed a search warrant on the International
14 Company's business premises on May 1, 2011, and seized hundreds of DVD movies,
15 photo DVDs, computers, and business records, including customer shipping labels and
16 customer order histories. Many of the DVD movies included the exhibition of the
17 genitals of nude minors. Law enforcement determined that these films were being
18 shipped to customers worldwide, including hundreds of individuals residing in the United
19 States. Law enforcement also determined that for those orders placed from the United
20 States, the International Company would fill those orders via USPS Priority Mail.

21 6. In reviewing records contained in the International Company's customer
22 database, USPS Inspector Brian Bone located a customer, DAVID S. ENGLE, with an
23 address in Maple Valley, Washington. Inspector Bone determined that, on multiple
24 occasions between August 2005 and April 2011, ENGLE purchased child pornography
25 from the International Company's website. Inspector Bone and USPS employees
26 extracted the customer invoices and purchase summary from the database, which details
27 the purchases made by ENGLE. A summary review of these transactions showed that
28 between August 2005 and April 2011, ENGLE purchased a total of approximately 78

1 different items on 20 different occasions via the International Company's website,
2 totaling \$2,294.90 in United States currency, and received \$40.08 in United States
3 currency in discounts for his orders. All transactions reviewed by USPIS employees
4 related to ENGLE showed a billing and shipping address at a post office box in Maple
5 Valley, Washington.

6 7. The customer records related to ENGLE show that he used three different
7 email addresses as confirmation email addresses on his orders, one of which was
8 "dhalloween@netzero.net." The business records associated with each customer
9 transaction also captured the date an order was placed and the IP address associated with
10 the computer used to place the order. Each customer transaction additionally had a
11 product identification number which corresponded to a specific video or DVD available
12 for purchase.

13 8. ENGLE's last order from the International Company, made on April 26,
14 2011, included downloadable files, meaning ENGLE received them from the
15 International Company via the Internet. All of ENGLE's prior orders included
16 information on the shipping method selected, meaning that he received those through the
17 mail. No shipping method was indicated for ENGLE's April 26, 2011, order. In the
18 "options" column for this order was a remark indicating that the download link would be
19 valid for seven days. Furthermore, in response to the question on the order form of
20 whether he would like to receive a mailed photo DVD, ENGLE responded "no thank
21 you."

22 9. I have reviewed the downloadable photo files that ENGLE ordered on April
23 26, 2011, and describe them as follows:

24 This portfolio of photos consists of 137 images. Based upon the lack
25 of visible pubic hair, lack of axial body hair, lack of muscular
26 development and overall stature, I believe the boys depicted in these
27 photos are prepubescent or just entering the early stages of puberty.
28 The majority of the photos feature the boys nude. There are no
adults seen in any of the photos. Many of the nude photos are taken
to ensure visibility of the genitals. For example, the images
numbered 25, 27, 28, 32, 33, and 34 feature what appears to be a
nude prepubescent boy lying face down on a massage table. Another

nude prepubescent boy is massaging the first boy's back. The photo is taken from the position of the feet of the boy who is lying down, and is positioned to give a clear view of the boy's buttocks and anus. Image number 54 features a nude prepubescent boy sitting down on a tile floor. The photo is cropped from the boy's thighs to his mid-forehead. His legs are open to fully expose his penis. The camera is positioned from the point of view of the legs of the boy. His penis is clearly visible and appears to be the focal point of the image.

10. On or about February 14, 2012, the United States Department of Justice Criminal Division, Child Exploitation and Obscenity Section, issued an administrative subpoena to United Online, which maintains records for Netzero.net online accounts, for information relating to the e-mail address "dhalloween@netzero.net," one of the e-mail addresses found in the International Company's customer database related to ENGLE's transactions. On or about August 6, 2012, United Online responded with the account holder name DAVID S. ENGLE, what appeared to be a prior residential address for ENGLE in Maple Valley, and Internet Protocol (IP) addresses and logs, i.e., date and time usage, for the e-mail address "dhalloween@netzero.net." Among that usage was information that, on February 14, 2012, "dhalloween@netzero.net" connected to the Internet using IP address 76.121.255.53 at 00:33:36 GMT, and disconnected from the internet at 00:36:17 GMT.

11. Further investigation revealed that the IP address 76.121.255.53 was registered to Comcast Communications (Comcast). On or about July 24, 2012, the United States Department of Justice Criminal Division, Child Exploitation and Obscenity Section, issued an administrative subpoena to Comcast requesting subscriber information for the IP address on February 14, 2012 at 00:34:00 GMT, which was within the time period United Online reported "dhalloween@netzero.net" as being connected to the Internet. On or about July 30, 2012, Comcast provided the following relevant information:

Account holder:	DAVID ENGLE
Service Address:	****, Maple Valley, WA
Start of Service:	December 30, 2005

1 12. A check with the Washington State Department of Licensing on or about
2 September 18, 2012, revealed that an individual named DAVID S. ENGLE resides at the
3 address provided by Comcast as described in Paragraph 11, above. A check of public
4 records databases revealed that ENGLE purchased the residence in approximately 2003.
5 From those same public records databases, it appears that ENGLE lived at the address
6 described in Paragraph 10, above, prior to 2003.

7 13. A Google search for "DAVID S. ENGLE" revealed that ENGLE is an
8 attorney working in Kent, Washington. Information on the Washington State Bar
9 Association (WSBA) website confirmed this, and, according to the WSBA website, the
10 mailing office for ENGLE's law practice is a post office box in Maple Valley,
11 Washington. This is the same post office box ENGLE used as his billing and shipping
12 address for his purchases from the International Company as described in Paragraph 6,
13 above.

14 14. On November 2, 2012, I applied for a search warrant for the residence
15 described above in Paragraph 11. The Honorable James P. Donohue, United States
16 Magistrate Judge, issued the warrant, and Postal Inspectors executed the warrant today,
17 November 6, 2012.

18 15. During a consensual, post-*Miranda* interview of ENGLE at the search
19 warrant, ENGLE admitted to downloading child pornography on his laptop computer,
20 which he stated was located in his residence. ENGLE estimated that there would be
21 thousands of images of child pornography on his computer. ENGLE further admitted to
22 ordering child pornography from the International Company. ENGLE also stated that the
23 child pornography he ordered, as well as three other computers containing child
24 pornography, were located in his storage locker at a different location in Maple Valley,
25 Washington. ENGLE consented to a search of his storage locker, and accompanied
26 Postal Inspectors to the storage locker. ENGLE identified the locations within the storage
27 locker where the DVDs and CDs of child pornography he ordered were located. ENGLE
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1 also identified the location within the storage locker of three computers and USB storage
2 drives that, according to ENGLE, would also contain child pornography.

3 16. During an onsite forensic preview of ENGLE's laptop computer by
4 computer forensic examiners not involved in the investigation, multiple images of child
5 pornography were identified. Postal Inspector Jeremy Leder showed me five images he
6 believed were child pornography. I concurred that all five of images Inspector Leder
7 showed me depicted children engaged in sexually explicit acts. Inspector Leder told me
8 further that they had identified approximately 11,000 suspected images of child
9 pornography on ENGLE's laptop, and that he believed there were in excess of 600 images
10 of children engaged in sexually explicit acts.

11 17. Based on my review of the five images, I describe one of them as follows:

12 The image depicts two white male children against a light blue
13 backdrop. Both are completely nude and have their legs spread
14 apart. One child is sitting between the legs of the other, with his
15 groin up against the genitals of the child in back. The child in front
16 has his genitals fully exposed to the camera, and this is the focal
point of the image. Based upon the lack of pubic hair, axial body
hair, overall size and development, I believe both boys are
prepubescent.

17 18. The remaining four images I reviewed depicted one to two boys engaged in
18 masturbatory acts with a pubescent female that may be over 18 years of age. Based upon
19 on the lack of pubic hair, axial body hair, lack of overall development, and size as
20 compared to the female depicted in the photos, I believe the boys are prepubescent.

21 19. I also reviewed the DVDs recovered from ENGLE's storage locker. Based
22 on the titles of the DVDs, I identified many of them as movies ENGLE had ordered from
23 the International Company, including a movie titled "Boy Fights XXI: Commando
24 Christmas (2009)." Based on my previous review of that movie, I describe its contents as
25 follows:

26 This movie is approximately 1 hour and 56 minutes in length. It
27 features three boys. Based on the lack of pubic hair, lack of axial
28 body hair, lack of facial hair, overall muscular development, and
physical stature, two of the three boys appear to be prepubescent.
The other boy has pubic hair development but is approximately the

1 same size and appears only slightly older than the other two boys.
 2 Based on his lack of axial body hair, lack of facial hair, overall
 3 muscular development, and physical stature, the boy appears to be
 4 entering puberty. The video starts with an introduction featuring
 5 nude highlight scenes from the video. The movie then starts with the
 6 three young boys visiting a friend in the hospital. At approximately
 7 9 minutes and 43 seconds, the boys return to the house. At
 8 approximately 10 minutes and 8 seconds the boys appear wearing
 9 only underwear. Approximately eight seconds later, the boys are
 10 nude. The camera runs on fast forward as the boys build beds while
 11 nude. The boys then engage in fighting and cleaning. The camera
 12 focuses repeatedly on the groin and anus of the boys, at times
 13 catching semi-erect penises. The angle of the camera shot is
 14 manipulated to repeatedly gain clear shots of the boys' genital
 15 regions. As an example, at approximately 17 minutes and 49
 16 seconds the camera focuses from a top down view with specific
 17 focus on one of the prepubescent boys' penis. At approximately 1
 18 hour and 33 minutes, the boys are interviewed individually by an
 19 adult male. Each boy is sitting nude during the interview. The
 20 camera is focused to provide a clear shot of the boys' groins during
 21 the interview. The film is translated with English subtitles.

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 23 20. Following the interview of DAVID SCOTT ENGLE at the search warrant,
 24 and based on investigative findings and ENGLE's statements to officers, ENGLE was
 25 arrested on probable cause for violations of Title 18, United States Code, Sections
 26 2252(a)(2) and 2252(b)(1), Receipt of Child Pornography, and Title 18, United States
 27 Code Sections 2252(a)(4)(B) and 2252(b)(2), Possession of Child Pornography. ENGLE
 28 was transported to the custody of the United States Marshals in Seattle, Washington,
 without incident. ENGLE made his initial appearance in United States District Court in
 the afternoon on November 6, 2012.

21 21. Later that same day, Postal Inspector Jeremy Leder began his review of the
 22 USB storage drives recovered from ENGLE's storage locker. On two of those USB
 23 storage devices, an Ativa 8GB USB drive and a Sandisk 8GB USB drive, Inspector Leder
 24 discovered multiple images and videos of ENGLE sodomizing a young male, who
 25 appeared to be approximately 8 to 14 years old. Through my contact with ENGLE during

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1 execution of the search warrant, I recognize him in the following images and videos:

2 a. In images "100_3106.jpg," "100_3107.jpg," and
3 "100_3108.jpg," DAVID SCOTT ENGLE's face is clearly visible.

4 b. In videos "100_1909.mpv" and "102_3914.mov," ENGLE is
5 completely nude and clearly visible.

6 22. Based on information contained in the EXIF data, the images and videos on
7 the two USB storage devices appear to have been produced on multiple dates ranging
8 between January 2006 and April 2011. EXIF data also indicates that the still images were
9 produced using a Kodak Z650 digital camera.

10 23. I was able to confirm with Ativa Customer Support that their USB storage
11 devices are manufactured in China. The Sandisk USB storage device bears language on it
12 indicating that it was made in China. I was also able to confirm with a Customer Service
13 representative of Kodak that their Z650 digital cameras are manufactured in China.

14 24. On November 8, 2012, Postal Inspector Samantha Knoll reviewed images
15 and videos extracted from a Lexar 8GB USB storage device and a Sandisk Cruzer 8GB
16 USB storage device. She observed multiple images and videos of DAVID SCOTT
17 ENGLE sexually abusing the same young male referenced in Paragraph 21, above.
18 According to the EXIF data, these images and videos appear to have been produced on
19 multiple dates in 2012.

20 25. Both the Lexar and Sandisk Cruzer USB storage devices bear language
21 indicating that they were manufactured in China.

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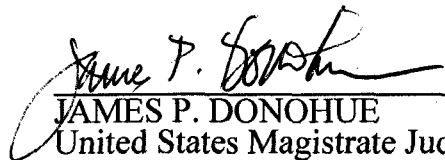
CONCLUSION

26. Based on the above facts, I respectfully submit that there is probable cause to believe that DAVID SCOTT ENGLE did knowingly and unlawfully produce, receive, and possess child pornography, in violation of Title 18, United States Code, Sections 2251(a) and (e), 2252(a)(2) and (b)(1), and 2252(a)(4)(B) and (b)(2).


W.E.S. Beaty, Complainant
Postal Inspector, United States Postal Service

Based on the Complaint and Affidavit sworn to before me, and subscribed in my presence, the Court hereby finds that there is probable cause to believe the Defendant committed the offenses set forth in the Amended Complaint.

Dated this 9th day of November, 2012.


JAMES P. DONOHUE
United States Magistrate Judge